From: Tombul Bridget E

Sent: Thursday, August 09, 2007 11:57 AM

To: Harrell Frankie M

Cc: Campbell Carol A

Subject: RE: PCC payments and EFTPS payments

Hi Frankie: After our discussion on the phone this morning, I was able to confirm with our subject matter experts the answers to the issues you raised to us back in May when we solicited requests for published guidance. You raised two issues, which we thought were better answered with informal advice.

Your issues were:

1. Does the bad check penalty under section 6657 apply to paper check conversion (PCC) payments and EFTPS payments?

and

2. When is the "date of payment" of a PCC payment? Should the IRS use the rules for determining payment under section 7502, or should it use the rules for processing electronic payments?

With regard to your first question, section 6657 only applies to payments made by paper check or by money order. When a taxpayer renders a paper check to the IRS, and then the IRS converts that check into an electronic payment using the PCC process, that does not change the fact that the taxpayer submitted a check to the IRS. Therefore, the section 6657 penalty applies if the PCC payment rejects due to lack of funds. In contrast, a payment made via EFTPS is not made by check or by money order. Therefore, the section 6657 penalty does not apply to a payment made by EFTPS, which is returned or rejected due to a lack of funds.

With regard to your section question, a check which is converted by the IRS to a PCC payment should be treated as any other check payment, in accordance with the rules under section 7502. That is, the amount will be deemed paid on the due date of the payment if the payment is deposited into the US mail or with an accepted private delivery service on or before the due date for making the payment. Such date would be determined by using the postmark to determine if the payment was timely or not. If the payment is deposited in the mail after the due date of the payment, then the payment date is the date that the payment is received by the IRS. If the PCC process does not take place on the date the payment was received, then the taxpayer is to be given credit for the received date.

If you have any other questions, or if the information in this e-mail is unclear or not helpful, please contact me. Also, if I have misunderstood the PCC process, please let me know, and, if necessary, we will amend our response accordingly.

Regards,

Bridget E. Tombul
Special Counsel to Division Counsel (W&I)
CC:WI